

Approved.

/s/ Benita Y. Pearson on 12/21/2018

United States District Judge

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
YOUNGSTOWN DIVISION**

WENDELL H. STONE COMPANY, INC.
d/b/a STONE & COMPANY, individually
and on behalf of all others similarly situated,

Plaintiff,

v.

**COMMERCIAL INDUSTRIAL
ROOFING, LLC**, an Ohio limited liability
company,

Defendant.

Case No.: 18-cv-02212-BYP

NOTICE OF VOLUNTARY DISMISSAL WITHOUT PREJUDICE

Plaintiff Wendell H. Stone Company, Inc. d/b/a Stone & Company (“Stone & Company” or “Plaintiff”) dismisses this lawsuit against Commercial Industrial Roofing, LLC without prejudice.

Federal Rule of Civil Procedure 41(a)(1) provides, in relevant part:

(a) Voluntary Dismissal.

(1) By the Plaintiff.

(A) *Without a Court Order.* Subject to Rules 23(e), 23.1(c), 23.2 and 66 and any applicable federal statute, the plaintiff may dismiss an action without a court order by filing:

(i) a notice of dismissal before the opposing party serves either an answer or a

motion for summary judgment; or

(ii) a stipulation of dismissal signed by all parties who have appeared.

(B) *Effect*. Unless the notice or stipulation states otherwise, the dismissal is without prejudice. But if the plaintiff previously dismissed any federal- or state-court action based on or including the same claim, a notice of dismissal operates as an adjudication on the merits.

In this case, Defendant has neither answered Plaintiff's Complaint nor served a motion for summary judgment. In addition, no class has been certified in this matter so Rule 23's exceptions do not apply. Likewise, this case does not involve any Receiver so as to implicate Rule 66.

Accordingly, Plaintiff hereby dismisses these proceedings in accordance with Rule 41(a)(1)(i) without prejudice.

Respectfully Submitted,

WENDELL H. STONE COMPANY, INC., individually
and on behalf of all others similarly situated,

Dated: December 21, 2018

By: /s/ Patrick H. Peluso

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** Pro Hac Vice*